IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

CRP.No. 575 of 2007()

AGAINST THE ORDER DATED 16/01/2007 IN EP.31/03,EA.69/05 IN OS.95/2001 of SUB COURT,THODUPUZHA

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REVN. PETITIONER: PETITIONER/JUDGMENT DEBTOR NO.1.

JSOSSY ABRAHAM, AGED 50,
S/O.LATE N.A.ABRAHAM, NANTHIKATTUKANDATHIL HOUSE,
ERUMELY KARA, ERUMELY VILLAGE, KANJIRAPPALLY
TALUK, KOTTAYAM DISTRICT.

BY ADV. SRI.CHITTOOR RAJAMANNAR

RESPONDENTS: COUNTER PETITIONERS/DECREE HOLDER

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1. ROBIN ABRAHAM, AGED 54 ,
S/O.LATE N.A.ABRAHAM, NANTHIKATTUKANDATHIL HOUSE,
KANJIRAPPALLY KARA, KANJIRAPPALLY TALUK, KOTTAYAM
DISTRICT(PRESENTLY) MEENACHIL POST, POOVARANY
VILLAGE, MEENACHIL TALUK, KOTTAYAM DISTRICT
(DECREE HOLDER).

2. THE EXCISE COMMISSIONER, TRIVANDRUM.

3. BABY JOSEPH,
RECEIVER, ADVOCATE, KATTAPANA IDUKKI DISTRICT.

THIS CIVIL REVISION PETITION HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No.575 OF 2007 C

Dated this the 28th June, 2007.

O R D E R

This revision petition is preferred against the order in E.A.69/05 in E.P.31/03 in O.S.95/01 of the Subordinate Judge's Court, Thodupuzha. The petition is filed by the judgment debtor to consider the question as to the jurisdiction of the court to execute the decree on the ground of fraud, grave violations of procedures and other connected matters. I have taken a decision in other C.R.P's, 527/07 and 528/07 to the effect that when a person wants to challenge a decree on the ground of fraud, it is only a voidable decree and it has to be set aside by methods known to law and the execution court can go into that question. So, the said submission cannot be accepted. Now, learned counsel for the revision petitioner submits that the decree is not in consonance with the judgment and it is liable to be interfered with. The judgment and decree of the court has been taken up in appeal and it reached up to the Apex Court and it has been confirmed. So what is put into execution is the decree which is confirmed by the Apex Court and the executing court cannot go beyond the terms of the decree and therefore such a question cannot be considered at this stage. For these reasons I

find no reason to interfere with the decision rendered by the executing court. Therefore C.R.P is dismissed.

M.N.KRISHNAN
Judge

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